February 22, 2005

HOUSE BILL No. 1845

DIGEST OF HB 1845 (Updated February 17, 2005 11:00 am - DI 51)

Citations Affected: IC 2-2.1; IC 4-10; IC 4-12.

Synopsis: Appropriations limit. Revises the formula for determining the state spending cap to be 99% of available general revenue. Voids general appropriations whenever total appropriations exceed 99% of available general revenue. Voids the appropriations made by a major budget bill whenever the bill or its conference committee report fails to include certain disclosures concerning the amount of spending being proposed by the general assembly. Requires the budget agency to prepare a revenue forecast. Repeals the current laws concerning the state spending growth quotient.

Effective: July 1, 2005.

Noe, Turner, Thompson

January 25, 2005, read first time and referred to Committee on Ways and Means.
February 21, 2005, reported — Do Pass.

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February 22, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1845

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-2.1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4. Budget Bills

Sec. 1. As used in this chapter, "general appropriation" refers to an appropriation described in section 10 of this chapter.

Sec. 2. Except as provided in sections 4 and 5 of this chapter, all of the general appropriations enacted by the general assembly for a state fiscal year, including appropriations for a state fiscal year made by a continuing appropriation enacted in any law, are void if the total of the general appropriations for the state fiscal year exceeds ninety-nine percent (99%) of the state revenue that the budget agency estimates under section 6 of this chapter will be available in the state fiscal year to pay for the appropriations. This section applies to all the general appropriations enacted for a state fiscal year regardless of whether the appropriations were enacted in the same bill or in the same session of the general assembly.

Sec. 3. The general appropriations enacted in a budget bill (as defined in IC 4-12-1-2) are void if:

(1) the bill includes appropriations for a state fiscal year, including increases in the appropriations for a state fiscal year, that total at least one hundred million dollars ($100,000,000); and

(2) the last version of the bill available to and voted on by each legislator or, if a later conference committee report was adopted for the bill, the last conference committee report available to and adopted by each legislator does not include the following information on the first or second page of the bill or in the bill's digest or synopsis:

(A) A materially accurate and complete explanation indicating the dollar amount of the surplus or deficit resulting from subtracting the total of all general appropriations made for each state fiscal year affected by the bill or the bill's conference committee report from the estimate of state revenue for that state fiscal year.

(B) A materially accurate and complete explanation indicating the percentage of the state revenue for each state fiscal year affected by the bill or the bill's conference committee report that is appropriated for general appropriations payable in that state fiscal year.

Sec. 4. Sections 2 and 3 of this chapter do not void an appropriation for a purpose described in IC 4-10-15 for which expenditures may be made without the enactment of an appropriation.

Sec. 5. (a) An appropriation that otherwise must be considered in complying with section 2 or 3 of this chapter shall be excluded from all computations related to determining compliance with section 2 or 3 of this chapter only if:

(1) the general assembly, in a regular session, authorizes an emergency appropriation by enacting a supplemental appropriations act that contains all the statements described in subsection (b); and

(2) the act is approved by a two-thirds (2/3) majority of the house of representatives and a two-thirds (2/3) majority of the senate.

(b) To satisfy subsection (a)(1), an act must contain the following:

(1) A statement describing which appropriations in the act are excluded from the application of sections 2 and 3 of this

chapter.

(2) A description of the additional amount of emergency appropriations and an explanation of the specific circumstances that created the need for a supplemental appropriation.

Sec. 6. (a) For each state fiscal year, the budget agency shall compute an estimate of state revenue using the formula established in section 7 of this chapter. An estimate for the two (2) years of a biennial budget period shall be computed before December 31 of the even-numbered year immediately preceding the beginning of each budget period. The first estimate required under this subsection is the estimate for the budget period beginning July 1, 2007, which shall be computed before December 31, 2006.

(b) For the second state fiscal year in a budget period, the budget agency shall revise the estimate of state revenue using the formula established in section 7 of this chapter. The revision of the estimate for the second year of a budget period shall be prepared before December 31 of the odd-numbered year immediately preceding the second state fiscal year in the budget period. The first revision required under this subsection is the revision for the second year of the budget period beginning July 1, 2007, which shall be computed before December 31, 2007.

(c) The budget agency may revise an estimate calculated under subsection (a) or a revised estimate calculated under subsection (b) after the estimate is distributed. A revision under this subsection must be prepared not later than fifteen (15) days before either chamber of the general assembly adjourns a session sine die.

(d) The last estimate computed under this section and distributed under section 8 of this chapter before the adjournment of a session sine die applies to all appropriations enacted before the end of that session.

(e) The last estimate computed under this section and distributed under section 8 of this chapter before a version of a bill or a later conference committee report for a bill is printed applies to all appropriations affected by that version of a bill or a bill's conference committee report.

Sec. 7. The estimated state revenue for a state fiscal year is the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the general revenues available for the state fiscal year, which is equal to the estimated revenues from all sources that are:

(A) forecast by the revenue forecast technical committee to

be received in the immediately following budget period; and

(B) required by law to be deposited in the state general fund or the property tax replacement fund;

including revenues from gross retail taxes, utility receipts taxes, adjusted gross income taxes, cigarette taxes, taxes on alcoholic beverages, riverboat wagering taxes, riverboat admissions taxes, inheritance taxes, insurance premium taxes, financial institution taxes, interest, and other miscellaneous income other than revenues described in section 10 STEP TWO of this chapter.

STEP TWO: Determine the total of net adjustments to be made to the general revenues for the state fiscal year, which is the amount determined under clause (I) of the following formula:

(A) Determine the disproportionate share and enhanced disproportionate share revenues that will be received by the state in the state fiscal year.

(B) Determine the interfund transfers to be made from the build Indiana fund to the state general fund or the property tax replacement fund in the state fiscal year.

(C) Determine the interfund transfers to be made from the counter-cyclical revenue and economic stabilization fund to the state general fund or the property tax replacement fund in the state fiscal year.

(D) Determine the sum of the amounts determined under clauses (A) through (C).

(E) Determine the interfund transfers to be made from the state general fund or the property tax replacement fund to the build Indiana fund in the state fiscal year.

(F) Determine the interfund transfers to be made from the state general fund or the property tax replacement fund to the counter-cyclical revenue and economic stabilization fund in the state fiscal year.

(G) Determine the amount included in the amount determined under STEP ONE that results from any of the following:

(i) An extraordinary nonrecurring transfer into the state general fund or the property tax replacement fund from a source other than the state general fund or the property tax replacement fund. For purposes of this item, generally accepted accounting principles apply in

determining whether a transfer qualifies as extraordinary.

(ii) A distribution from the federal government that may be expended without an appropriation by the general assembly, other than a distribution described in clause (A).

(H) Determine the sum of the amounts determined under clauses (E) through (G).

(I) Subtract the amount determined under clause (H) from the amount determined under clause (D).

STEP THREE: If:

(A) the STEP TWO amount is zero dollars ($0), the estimated state revenues for the state fiscal year is the STEP ONE amount;

(B) the STEP TWO amount is greater than zero dollars ($0), the estimated state revenues for the state fiscal year is the sum of the STEP ONE amount and the STEP TWO amount; and

(C) the STEP TWO amount is less than zero dollars ($0), the estimated state revenues for the state fiscal year is the result of the STEP ONE amount minus the absolute value of the STEP TWO amount.

Sec. 8. (a) Not earlier than December 1 and not later than the first session day of the general assembly after December 31 of each even-numbered year, the budget agency shall submit in an electronic format under IC 5-14-6 to the executive director of the legislative services agency a report that includes at least the following information:

(1) The estimated state revenue for each of the state fiscal years in the immediately following biennial budget period.

(2) The supporting data and calculations necessary for a person to independently verify the manner in which the estimates of state revenue described in subdivision (1) were determined.

(b) Not earlier than December 1 and not later than the first session day of the general assembly after December 31 in each odd-numbered year, the budget agency shall submit in an electronic format under IC 5-14-6 to the executive director of the legislative services agency a report that includes at least the following information:

(1) The estimated state revenue for the second state fiscal year in the current budget period.

(2) The supporting data and calculations necessary for a person to independently verify the manner in which the estimate of state revenue described in subdivision (1) was determined.

(c) Not later than three (3) days (including Saturday, Sunday, or any holiday) after the budget agency revises an estimate of state revenue distributed under subsection (a) or (b), the budget agency shall submit in an electronic format under IC 5-14-6 to the executive director of the legislative services agency a report that includes at least the following information:

(1) The revised estimated state revenue for the state fiscal years affected by the report.

(2) The supporting data and calculations necessary for a person to independently verify the manner in which the revised estimates of state revenue described in subdivision (1) were determined.

Sec. 9. (a) The budget agency shall compute the dollar amount of the total of general appropriations from the state general fund and the property tax replacement fund for each state fiscal year for which an appropriation is made or being considered:

(1) each time that a bill or a bill's conference committee report described in section 3 of this chapter is being considered for final action by the house of representatives or the senate; and

(2) not later than thirty (30) days after the adjournment sine die of a session of the general assembly.

(b) While the general assembly is in session, reports, submitted in an electronic format under IC 5-14-6, containing at least the total dollar amount of general appropriations must be delivered to the executive director of the legislative services agency in a format and on a schedule that allows bills and conference committee reports described in section 3 of this chapter to be printed without delay with the information required under that section.

(c) Not later than thirty-five (35) days after a session of the general assembly adjourns sine die, a report, submitted in an electronic format under IC 5-14-6, containing at least the total dollar amount of general appropriations must be delivered to the executive director of the legislative services agency. A report required by this subsection must be delivered not later than five (5) regular business days after it is computed.

Sec. 10. The total of general appropriations from the state general fund and the property tax replacement fund for a state

fiscal year is equal to the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the total amount that is authorized by appropriation for payment or transfer from the state general fund or the property tax replacement fund in the state fiscal year, regardless of the bill or session in which the appropriation is or is to be enacted.

STEP TWO: Determine the total amount included in the STEP ONE amount that is appropriated from the state general fund or the property tax replacement fund for:

(A) settlements and judgments;

(B) transfers between accounts in the state general fund, accounts in the property tax replacement fund, or the state general fund and the property tax replacement fund;

(C) the distribution of tax refunds or refundable tax credits; or

(D) any purpose to the extent that money described in section 7, STEP TWO (G)(ii) of this chapter (distribution from the federal government that may be expended without an appropriation) is to fund the appropriation.

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

Sec. 11. (a) The part of an appropriation that is an open ended appropriation exceeding a specific amount appropriated for a purpose is not to be considered in computing general appropriations under section 10 of this chapter.

(b) For purposes of section 10 of this chapter, a descriptive appropriation that does not authorize a specific amount for expenditure in a state fiscal year is to be estimated as the maximum amount that the budget agency estimates may be expended in the period for which the appropriation is made for purposes of the appropriation. For purposes of section 10 of this chapter, if the appropriation is made for a period exceeding one (1) state fiscal year and less than eleven (11) state fiscal years, the maximum allowable appropriation shall be apportioned among the state fiscal years by the same percentage. If the appropriation is made for more than ten (10) state fiscal years, the maximum allowable appropriation shall be apportioned by the same percentage over the initial ten (10) state fiscal years.

(c) For purposes of section 10 of this chapter, if an appropriation of a specific amount is made for a period exceeding one (1) state fiscal year, fifty percent (50%) of the appropriated

amount is to be allocated as a general appropriation for each state fiscal year in a budget period.

(d) For purposes of section 10 of this chapter, language that only authorizes a person to issue bonds, enter into a loan agreement, enter into a lease, or enter into another agreement shall not be treated as an appropriation unless the general assembly otherwise appropriates money to pay for or to repay the authorized obligations.

(e) For purposes of complying with section 3 of this chapter but not section 2 of this chapter, only appropriations that:

(1) have been enacted into law;

(2) are contained in a bill or a bill's conference committee report in which appropriation surplus or deficit is to be printed;

(3) were previously passed by both houses of the general assembly in the same session as a bill or a bill's conference committee report in which appropriation surplus or deficit is to be printed; or

(4) are contained in any other bill that by rule of the house of representatives or the senate must be considered in complying with section 3 of this chapter;

shall be considered in computing the total of general appropriations under section 10 of this chapter.

SECTION 2. IC 4-10-21-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 0.5. As used in this chapter, "general expenditures" refers to an expenditure from the state general fund or the property tax replacement fund that is authorized by a general appropriation subject to IC 2-2.1-4, other than any part of an appropriation excluded under IC 2-2.1-4-5.**

SECTION 3. IC 4-10-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "state spending cap" refers:

(1) for state fiscal years ending before July 1, 2007, to the state spending cap determined under section 2 of this chapter; **and**

(2) for state fiscal years beginning after June 30, 2007, to the maximum amount that may be appropriated for general appropriations in a state fiscal year under IC 2-2.1-4.

SECTION 4. IC 4-10-21-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~(a) For the state fiscal year beginning July 1, 2003, and ending June 30, 2004, the state spending cap is equal to the result determined under STEP THREE of~~

~~the following formula:~~

~~STEP ONE: Determine the sum of the total of the appropriations made from the state general fund and the property tax replacement fund (including continuing appropriations) for the state fiscal year beginning July 1, 2002, and ending June 30, 2003.~~

~~STEP TWO: Subtract from the STEP ONE result two hundred forty-three million dollars ($243,000,000), which is the amount of certain reversions made by state agencies.~~

~~STEP THREE: Multiply the STEP TWO result by one and thirty-five thousandths (1.035).~~

~~(b) For the state fiscal year beginning July 1, 2004, and ending June 30, 2005, the state spending cap is equal to the product of the result determined under subsection (a) multiplied by one and thirty-five thousandths (1.035).~~

~~(c)~~ **(a)** The state spending cap for a state fiscal year beginning after June 30, 2005, is equal to the product of the state spending growth quotient for the state fiscal year determined under section 3 of this chapter multiplied by the state spending cap for the immediately preceding state fiscal year.

~~(d)~~ **(b)** The state spending cap imposed under this section is increased in the initial state fiscal year in which the state receives additional revenue for deposit in the state general fund or property tax replacement fund as a result of the enactment of a law that:

(1) establishes a new tax or fee after June 30, 2002;

(2) increases the rate of a previously enacted tax or fee after June 30, 2002; or

(3) reduces or eliminates an exemption, a deduction, or a credit against a previously enacted tax or fee after June 30, 2002.

The amount of the increase is equal to the average revenue that the budget agency estimates will be raised by the legislative action in the initial two (2) full state fiscal years in which the legislative change is in effect.

~~(e)~~ **(c)** The state spending cap imposed under this section is decreased in the initial state fiscal year in which the state is affected by a decrease in revenue deposited in the state general fund or property tax replacement fund as the result of the enactment of a law that:

(1) eliminates a tax or fee after June 30, 2002;

(2) eliminates any part of a tax rate or fee after June 30, 2002; or

(3) establishes or increases an exemption, a deduction, or a credit against a tax or fee after June 30, 2002.

The amount of the decrease is equal to the average revenue that the budget agency estimates will be lost as a result of the legislative action in the initial two (2) full state fiscal years in which the legislative change is in effect.

(d) This section expires July 1, 2007.

SECTION 5. IC 4-10-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The maximum total amount that may be expended in a state fiscal year from the state general fund, the property tax replacement fund, and the counter-cyclical revenue and economic stabilization fund is the least of the following:

(1) Subject to sections 6 and 7 of this chapter, the state spending cap for the state fiscal year.

(2) The amount appropriated by the general assembly from the state general fund, the property tax replacement fund, and the counter-cyclical revenue and economic stabilization fund.

(3) The amount of money available in the state general fund, the property tax replacement fund, and the counter-cyclical revenue and economic stabilization fund to pay expenditures.

(b) Subject to sections 6 and 7 of this chapter, if the state spending cap for the state fiscal year is less than the amount appropriated by the general assembly in the state fiscal year from the state general fund, the property tax replacement fund, and the counter-cyclical revenue and economic stabilization fund, the budget agency shall reduce the amounts available for expenditure from the state general fund, the property tax replacement fund, and the counter-cyclical revenue and economic stabilization fund in the state fiscal year by using the procedures in IC 4-13-2-18.

(c) This section expires July 1, 2007.

SECTION 6. IC 4-10-21-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.1. (a) After June 30, 2007, the maximum total amount that may be expended for general expenditures in a state fiscal year may not exceed the maximum allowable expenditure imposed under this chapter and the maximum allowable appropriation under IC 2-2.1-4.**

(b) If the state spending cap for the state fiscal year is less than the amount appropriated by the general assembly for general expenditures in the state fiscal year, when all open ended appropriations and nonspecific descriptive appropriations are considered, the budget agency shall reduce the amounts available for general expenditures to avoid a total amount of general expenditures that exceeds the state spending cap by using the

procedures set forth in IC 4-13-2-18.

SECTION 7. IC 4-10-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a)** The following expenditures that would otherwise be subject to this chapter shall be excluded from all computations and determinations related to a state spending cap:

(1) Expenditures derived from money deposited in the state general fund, the property tax replacement fund, and the counter-cyclical revenue and economic stabilization fund from any of the following:

(A) Gifts.

(B) Federal funds.

(C) Dedicated funds.

(D) Intergovernmental transfers.

(E) Damage awards.

(F) Property sales.

(2) Expenditures for any of the following:

(A) Transfers of money among the state general fund, the property tax replacement fund, and the counter-cyclical revenue and economic stabilization fund.

(B) Reserve fund deposits.

(C) Refunds of intergovernmental transfers.

(D) Payment of judgments against the state and settlement payments made to avoid a judgment against the state, other than a judgment or settlement payment for failure to pay a contractual obligation or a personnel expenditure.

(E) Distributions or allocations of state tax revenues to a unit of local government under IC 36-7-13, IC 36-7-26, IC 36-7-27, IC 36-7-31, or IC 36-7-31.3.

(F) Motor vehicle excise tax replacement payments that are derived from amounts transferred to the state general fund from the lottery and gaming surplus account of the build Indiana fund.

(G) Distributions of state tax revenues collected under IC 7.1 that are payable to cities and towns.

(b) This section expires July 1, 2007.

SECTION 8. IC 4-10-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) An appropriation otherwise subject to the state spending cap limitation imposed by section 5 of this chapter shall be treated as exempt from the state spending cap limitation only if the general assembly specifically exempts the appropriation from the state spending cap in clear and unambiguous language contained in the bill making the appropriation.

(b) The following language shall be treated as meeting the requirements of subsection (a):

"The general assembly waives the state spending cap limitation imposed by IC 4-10-21-5 for the state fiscal year beginning July 1, (insert the applicable year), and ending June 30, (insert the applicable year), for the following appropriation: (insert the language of the appropriation). Notwithstanding IC 4-10-21-5(a)(1), the budget agency may allot appropriations for the appropriation without making any reduction under IC 4-10-21-5(b).".

(c) Language in a bill such as "Notwithstanding IC 4-10-21" or "IC 4-10-21 does not apply to this appropriation" shall not be treated as meeting the requirements of subsection (a). The budget agency may consider the language described in this subsection or other language that does not meet the requirements of subsection (a) only in determining which appropriations to make available for expenditure under section 5(b) of this chapter.

(d) This section expires July 1, 2007.

SECTION 9. IC 4-10-21-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. **(a)** Not earlier than December 1 and not later than the first session day of the general assembly after December 31 of each even-numbered year, the budget agency shall submit a report in an electronic format under IC 5-14-6 to the executive director of the legislative services agency that includes at least the following information:

(1) The state spending cap for each of the state fiscal years in the immediately following biennial budget period.

(2) The supporting data and calculations necessary for a person to independently verify the manner in which the state spending caps described in subdivision (1) were determined.

(b) This section expires July 1, 2007.

SECTION 10. IC 4-12-1-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 8.5. (a) The statement required under section 9 of this chapter in the second part of a budget report (proposed anticipated income) must be based on a forecast that presents, to the best of the budget director's knowledge and belief, the expected income that will be available to meet the appropriations in:**

(1) each state fiscal year in the budget period for which the budget report is prepared; and

(2) each calendar year containing any part of the budget

period.

(b) The forecast prepared under this section shall be updated at least semiannually. During odd-numbered years, the forecast prepared under subsection (a) shall be updated before the last regular business day immediately preceding April 11 in the year.

(c) A forecast prepared under this section shall be expressed in specific monetary amounts as a single point estimate of forecasted income. The forecast must contain the information necessary to compute the expenditure limitations in IC 2-2.1-4. Due professional care must be used in preparing the forecast. The underlying assumptions used must provide a reasonably objective basis for the forecast and be appropriate for the circumstances. Significant underlying assumptions must be disclosed in the forecast report.

(d) The budget director shall submit a forecast prepared under this section, including each updated version of the forecast, in an electronic format under IC 5-14-6 to the executive director of the legislative services agency not later than two (2) regular business days after a forecast is completed.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 4-10-21-3; IC 4-10-21-4.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1845, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ESPICH, Chair

Committee Vote: yeas 12, nays 7.